IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 2123 /2001

PETITIONER : Smt.Urmila Bai,wife of Dauram aged about 37 years, Sarpanch, Gram Panchayat - Khajuri,Block Baloda Bazar,District Raipur, Chhattisgarh.

VERSUS

RESPONDENTS 1. Additional Collector, Baloda Bazar,district,Raipur,Chhattis-Garh.

2. Sub Divisional Officer (Revenue) Baloda Bazar,district Raipur, Chhattisgarh.

3. Tehsildar , Baloda Bazar, (Returning Officer for conduct of No Confidence Motion) Distt. Raipur,Chhattisgarh.

4. Ramesh son of Sonuram,Up Sar-panch, Gram Panchayat Khajuri Block Baloda Bazar,distt.Raipur Chhattisgarh.

5. Jagdish son of Budhiram

6. Budhar son of Jhaduram

7. Thanuram son of Karamadas

8. Ramadhar son of Trilochan,

9. Hem son of Sadhram

P. R. No. 2956/01
Presented by Shri V.R.Tiwari
dated 31/10/01

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10. Kaushaliya wife of Raj Kumar

11. Kamal son of Sahasram

12. Neera Bai wife of Punaram

13. Ansuiya wife of Gautam

Respondents no. 5 to 13 are Panchas of Gram Panchayat Khajuri, block Baloda Bazar, district - Raipur, Chhattisgarh.

PETITION UNER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF CERTIORARI, MANDAMUS, PROHIBITION AND OTHER SUITABLE WRIT/DIRECTION OR ORDERS.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(43)

आदेश पत्रक

मामला क्रमांक W.P.No.2123/ सन् 2001

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	23.11.2001 Heard Shri Prashant Mishra, learned counsel for the petitioner. Heard also Shri Deep Kesharwani, learned Panel Lawyer for the respondents. The petitioner while serving as Sarpanch was removed by a No Confidence Motion taken up on 11.9.2001. An appeal was preferred by the writ petitioner before the Appellate Authority - Additional Collector, Baloda Bazaar and a prayer was made before the Appellate Authority to grant stay of the motion and a direction to allow the writ petitioner to continue as Sarpanch. However, this prayer was rejected, hence this petition under Article 226 of the Constitution of India. Shri Prashant Mishra has submitted that a case which arose in a similar situation was dealt with by the Madhya Pradesh High Court as regards the application of provision of sub section 2 of section 21 of Panchayat Raj Adhiniyam and rule 5 of the No Confidence Motion Rules, 1994 and the said Court came to the conclusion that statutory right of the Sarpanch under sub section 2 of section 21 cannot be whittled down by any means including majority of the members.	

पत्र लिखें

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

The contention is made on the ground that though the writ petitioner had a right to speak at the time of No Confidence Motion that was taken up against him, he did not have such a right at a relevant time to defend himself and to place his case before the House. It seems the Presiding Officer had not asked the writ petitioner to state what he wished to say before the Board of No Confidence was taken up. According to Shri Prashant Mishra, the writ petitioner ought to have been asked to speak during the proceedings inasmuch as otherwise the writ petitioner would have lost a very important right under the relevant provisions stated above.

Be that as it may, in my view, since the writ petitioner has already filed appeal before the Competent Authority, the Appellate Authority should examine every aspect of the matter and pass necessary orders on merit.

In the few facts and circumstances I have stated above, I am not inclined to interfere with the order of rejection to allow an interim relief. However, let the appeal now pending before the Appellate Authority be decided expeditiously and at any rate not later than one month from the date of receipt of this order.

In the result, with the above observations and directions this petition is rejected.

Sd/-
Chief Justice

GRPRJ—FS/311—1/2001—50,000.